

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>JOSHUA A. MONIGHAN</b>	:	
	<b>Plaintiff</b>	:
		:
		<b>No. 1:18-CV-1654</b>
<b>v.</b>		:
		:
		<b>Judge Jones</b>
<b>TOM WOLF GOVERNOR</b>	:	
<b>COMMONWEALTH OF PA</b>	:	<b>Electronically Filed Document</b>
	:	
	:	<i>Complaint Filed 08/21/18</i>
	:	
	<b>Defendant</b>	:

**REPLY BRIEF IN SUPPORT OF DEFENDANT GOVERNOR TOM  
WOLF’S MOTION TO DISMISS**

On August 21, 2018, Mr. Monighan initiated a civil action against Governor Tom Wolf by filing a document purporting to be a civil complaint. ECF. Doc. No. 1. Governor Wolf filed a motion to dismiss and supporting brief. ECF Doc. Nos. 7 & 9. Mr. Monighan filed a brief in opposition on October 5, 2018. ECF. Doc. No. 12. Governor Wolf now files this reply brief in response to Mr. Monighan’s opposition.

**ARGUMENT**

A complaint must be dismissed under Fed.R.Civ.P. 12(b)(6), if it does not allege “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The plaintiff must aver “factual

content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 663 (2009). “Though a complaint ‘does not need detailed factual allegations, . . . a formulaic recitation of the elements of a cause of action will not do.’” *DelRio–Mocci v. Connolly Prop. Inc.*, 672 F.3d 241, 245 (3d Cir. 2012) (citing *Twombly*, 550 U.S. at 555). Mr. Monighan’s complaint fails to meet this standard and nothing in his brief in opposition should convince the Court otherwise.

Similar to his original complaint, Mr. Monighan’s response to the Governor’s motion to dismiss is incoherent. Nowhere in his three-page brief does Mr. Monighan explain why his complaint meets the pleading standard proscribed by Rule 8. Rather than using his brief as an opportunity to demonstrate to the Court that his complaint satisfies acceptable pleading standards, Mr. Monighan simply reiterates “objections” in a series of random phrases and incomplete thoughts, without any citations to legal authority.

For these reasons, Mr. Monighan has not effectively opposed Governor Wolf’s motion to dismiss. Therefore, the motion should be granted and the complaint should be dismissed for failure to conform to the pleading standards set forth in Rule 8.

## **CONCLUSION**

Mr. Monighan's Complaint fails to set forth a short and plain statement of his claims as required by Federal Rule of Civil Procedure 8(a); therefore, Governor Wolf respectfully requests that his motion to dismiss be granted.

**Respectfully submitted,**

**JOSH SHAPIRO**  
**Attorney General**

**By:** *s/ Keli M. Neary*

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**Date: October 16, 2018**

**Counsel for Governor Tom Wolf**

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**CERTIFICATE OF SERVICE**

I, Keli M. Neary, Cheif Deputy Attorney General for the Commonwealth of Pennsylvania, Office of Attorney General, hereby certify that on October 16, 2018, I caused to be served a true and correct copy of the foregoing document titled *Reply Brief in Support of Governor Wolf's Motion to Dismiss* to the following:

**VIA E-MAIL ONLY TO:**

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**KELI M. NEARY**  
Chief Deputy Attorney General